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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eighteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)*
OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 May 1998, at 3 p.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 16 AND 17 OF THE COVENANT (continued)

Second periodic report of the Netherlands: Aruba (continued) (HRI/CORE/1/Add.68, E/1990/6/Add.13, E/C.12/Q/NET/1)

1. At the invitation of the Chairperson the delegation of the Netherlands took places at the Committee table.

2. The CHAIRPERSON, apologising for his absence, explained that he had continued to gather material in order to complete a Draft General Comment, and had also held discussions with representatives of different groups in preparation for the day of general discussion the following week. That discussion was increasing in importance both to the Committee and to the world in view of the speed with which matters were developing.

3. It was neither surprising nor unusual that the Netherlands dialogue had been so extensive as it involved three comprehensive reports, which had not been the case previously, when only a limited group of articles had been considered.

4. Mr. POTMAN (Netherlands), replying to the question by Mrs. Bonoan-Dandan on the minimum marriageable age of 15 for girls and the possible dispensation for earlier marriage, said that the age was based on historical and traditional developments. Marriage below 15 was permitted in cases of pregnancy, as a means of providing some protection and of countering the social effects of teenage motherhood.

5. As to whether Arubans had the right to live in the Netherlands, the same rule applied as for the Netherlands Antilles. Likewise, European Dutch would require a permit to live in Aruba.

6. The answer as to why education had not been made compulsory appeared in paragraphs 42 and 43 of the written replies. Legislation was under consideration but no precise date could be given for the completion of the legislative process. It was to be hoped that compulsory education would become part of the Aruban system before long.

7. The percentage of the population working for the minimum wage had stood at 18.4 in 1994. The maximum number of working hours per week permitted under the law was 45 but permits for overtime could be granted by the Director of the Department of Labour for a maximum period of 4 weeks, beyond which an advisory committee would have to be consulted.

8. Aruba's economy had been dominated by its oil refinery industry until 1985, when the refinery was closed, causing unemployment estimated at 27 per cent. The subsequent development of the tourist industry had turned the situation around and a labour shortage had developed, which had ultimately been offset by foreign labour. At the end of 1994, a 5-year macro-economic

plan for balanced economic growth had been adopted, comprising a sound economic policy designed to promote private sector development, increased investment in human development and technology, and measures to foster greater labour market flexibility, including initiatives to support the return of Aruban workers living abroad.

9. The rate of unemployment, which had been 6.4 per cent in 1994, had fallen to only 0.7 per cent by the end of 1996. No precise figures were available for more recent years.

10. Aruban social policy was largely based on the Dutch model and was aimed at guaranteeing a minimum subsistence level for those unable to support themselves because of illness, disability, unemployment or old age.

11. The social security structure consisted of social insurances, financed through insurance premiums, and social benefits paid from public funds. Income support and free medical treatment, for example, were provided to families or households which had no income and were not covered by any other statutory schemes or benefits. The Government had introduced a general medical insurance scheme in 1996 with the aim of providing a system of high quality affordable health care accessible to all.

12. On the question of the percentage of girls in secondary education, they were under-represented in technical education and over-represented in service- and care-oriented education, undoubtedly due to the influence of stereotypes and male and female role models. In relative terms, however, more girls than boys progressed from primary school to general secondary education. Currently there were more girls than boys in general secondary schools and more females than males studied at university and in higher professional education.

13. With regard to the expulsion of foreigners, all persons on the island illegally could be expelled. The expulsion procedure was for a written statement giving the grounds for expulsion, which qualified as an administrative decision, to be served on the persons concerned. An appeal could be lodged with an independent committee, which would hold a hearing with both parties. The committee subsequently advised the Minister of Justice, whose decision could be appealed in the administrative court. In recent years, there had been about 1,000 expulsions per year. To eradicate the phenomenon of illegals, the Government had introduced a general amnesty in 1993, which had resulted in some 5,000 illegals becoming legal residents.

14. Ms. BONOAN-DANDAN wondered whether the Aruban population considered 15 to be an age of maturity. Was there any kind of plan to raise that age, bearing in mind that early marriage tended to jeopardize the rights of the intending spouses, particularly the girl, to health, education and in many cases the right to work.

15. Ms. JIMENEZ BUTRAGUEÑO asked whether there was any link between the two social security schemes previously referred to, and what their sources of funds were. Which of the two schemes provided health benefits?

16. Mr. GRISSA said that family matters appeared to differ considerably between Aruba and the Antilles. The number of divorces in particular was very

high and he wondered how the rights of the children of divorced parents were protected and how their care and custody was decided and by whom. Did tradition play any part in the decisions? He had also noted that Aruba had its own central bank and wondered whether it had its own currency as well.

17. Mr. van RIJSSEN, referring to the question of marriageable age, said that in cases of pregnancy below the age of 15, marriage might provide the girl with protection. The current tendency, however, was, through education, to try to prevent teenage pregnancies. Raising the marriageable age would simply prevent girls who became pregnant at a younger age from marrying and leave them in the vulnerable position of being without social protection.

18. The future of the children of divorced parents was, in all three parts of the Kingdom, decided by the court which granted the divorce. The court's first priority was always to ensure the children's well-being. Children over the age of 12 had to be consulted and those under the age of 12 would also be consulted, provided they were capable of understanding. Their interests were paramount and formed the basis of family law throughout the Netherlands.

19. Aruba had its own currency, as did the Antilles and the Netherlands, and all three currencies were linked.

20. Mr. POTMAN said that Aruba's social security system was similar to that of the Netherlands. Those able to support themselves paid insurance premiums into a non-State scheme which guaranteed their social security, while those who were unable to support themselves received benefit from public funds. The two schemes were thus complementary.

21. The Government would undoubtedly raise the marriageable age as secondary education for girls improved. The delegation was not aware of any particular plans, but would convey the query to the Aruban government in case it was raised again in the future.

22. The CHAIRPERSON said that he took it that the Committee had exhausted its questions on Aruba and could return to the answers to questions from the earlier part of the dialogue.

23. Mr. POTMAN suggested that it might be useful first of all to give the Committee a brief overview of the results of the elections just held in the Netherlands and their likely implications for the Committee's work.

24. The two leading parties in the government coalition, the Social Democratic Party and the Liberal Democrats, had won a substantial number of votes, but the "junior" partner in the coalition, the leftist Liberal Party, had lost heavily, although not as heavily as it had feared. The Queen was expected to invite the outgoing Prime Minister to form a new government, and he would probably attempt to restore the former 3-party coalition.

25. One interesting result had been the elimination of the only right-wing racially discriminating party, which had formerly held three seats and had been eliminated earlier in the year in the municipal elections. Another trend was that approximately 35 per cent of the members of the new parliament would

be women, who would be about 50 in number. The participation of the ethnic minorities had also increased and would stand at about 5 per cent, roughly reflecting their proportion of the population.

26. On balance, with nine political parties remaining, there had been a slight shift to the left, which might mean that social policy issues would be given increased attention, as the outgoing Prime Minister, who was the leader of the Social Democrats, had intended. On the other hand, the Liberal Democrats had also won a substantial number of seats and would focus more on keeping a tight budget.

27. The political landscape had therefore sharpened and in the coming months the political debate could be expected to be quite forceful in defining a programme of government and in selecting people for ministerial posts. In those programmatic discussions, social issues would feature high on the agenda.

28. An article from The Economist containing an instructive insight into how the "polder model" worked would be distributed to Committee members.

29. Ms. GORIS (Netherlands), replying to questions under article 2 of the Covenant, said that in the belief that racial discrimination might be one of the reasons for high unemployment among the ethnic minorities, the Netherlands Government had passed a certain amount of legislation, including an Act to promote proportional access to employment by ethnic minorities, which had been inspired by the Canadian Employment Equity Act, and which had come into force on 1 July 1994. An evaluation of that Act in October 1996 had shown that 90 per cent of employers had become acquainted with it, and almost 60 per cent had introduced a system of employee registration. It was clear, however, that the Act had prompted more discussion than changes in personnel policy, and in 1997 proposals had been introduced to make the Act more effective. The changes included the requirement that the annual report should be submitted to the Regional Employment Board instead of to the Chamber of Commerce, and that a plan of the measures which the employer intended to implement the following year to stimulate the employment of ethnic minorities should be made public.

30. With regard to the transfer of equality policy from central to regional or local government, the process of decentralization had started in the Netherlands some 10 years earlier on the basis of the conviction that it would ensure the essential commitment of directly involved partners. While the overall responsibility for equality policy remained with the central Government, the local partners were now responsible for its execution in the light of local needs and circumstances. Decentralization could have a positive impact on policy. A notable example had been the organization of child care facilities, the quality and quantity of which could be matched to local needs within the scope of a national policy.

31. Mr. POTMAN (Netherlands), replying to questions on articles 1-5 of the Covenant, said that the Netherlands Government, on behalf of the Netherlands Antilles, was seriously considering withdrawing its reservation to article 8.1 (b) of the Covenant.

32. With regard to examples of jurisprudence in which the Covenant had been mentioned, the Government's legal department had found that it had been invoked in three cases, two in 1988 and one in 1995, but had been rejected by the courts on all three occasions as having no direct application.

33. Ms. GORIS (Netherlands), replying to questions on age limits, discrimination on the grounds of handicap and measures to combat age discrimination, said that the Netherlands had only recently started to rethink its attitude towards formerly widely accepted age limits, and there was now a growing consensus that age limits were acceptable only under certain conditions, such as necessity, and that any distinction on the ground of age without sufficient justification was discriminatory.

34. So far forms of discrimination were prohibited only by the Constitution and international conventions. Research into all national legislation and other rules and regulations had recently been undertaken with a view to identifying any discriminatory provisions, and the Ministry of Health had requested companies and organizations to remove all unjustified age limits from their constitutions in order to counter the negative image of older persons. A number of non-profit-making organizations were also working to combat age discrimination. A national phone-in day on age discrimination organized in 1996 had shown that the problem of age discrimination was encountered most frequently in the area of work. Reports that some employers were recruiting new workers with an absolute maximum age limit of 35 had resulted in the drafting of a bill by the Ministry of Social Affairs banning age discrimination in job recruitment and advertisements. The bill had been passed to Parliament in October 1997 but there was no information as to when it would become law.

35. Discrimination on the grounds of handicap or disability was also covered by the Constitution and international conventions, but the issue was still being widely discussed. As a result of extensive research, which had shown that discrimination was common and that there was little legal recourse available to combat it, the Government had drafted an outline for an equal treatment Act, which was currently being discussed by various organizations concerned. The outline included a ban on discrimination in the areas of job recruitment, sport and accessibility to public buildings.

36. With regard to the high rate of unemployment among the over-50s, the demographic reason was the large supply of young people on the labour market in the late 1970s and early 1980s, due to the high birth rate following the Second World War. The economic reason was the recession which had occurred during the same period, when many people had lost their jobs through redundancy or early retirement. The technological reason was the change from manual to computer skills which employers had started to demand and which had prompted many older people to give up work.

37. With regard to variable working hours and the means of assessing equal pay for equal work, the principle of equal pay for equal work was incorporated into Dutch legislation. An Act prohibiting discrimination between employees on the basis of their working hours in general had come into force in November 1996, while the Equal Treatment Act prohibited discrimination on the grounds of race and sex in respect of conditions of employment. Temporary

workers were entitled to the same rate of pay as permanent employees working in the same company and doing the same work, unless collective labour agreements stipulated otherwise.

38. The Commission on Equal Treatment, which was responsible for the enforcement of the two Acts, was currently engaged in their assessment.

39. With regard to the statement that no young person would be unemployed for more than six months after leaving school, the Youth Employment Guarantee Act provided that in the first six months after leaving school, young persons would be given an opportunity to find a job with the help of the Public Employment Service. Most school leavers, probably as many as 80 per cent, were successful. Those who failed to find jobs in that time were given subsidized jobs arranged by the local authority.

40. Mr. van RIJSSEN (Netherlands) said that, as a follow-up to the youth employment scheme, training could be provided, and other types of jobs made available, under the Public Employment Service on a national basis and also under the local authorities.

41. Regarding difficulties on the labour market experienced by ethnic minorities, to which reference had been made, he said that the lower average education of immigrants as well as difficulties with the Dutch language, combined with strong competition for low-skilled jobs, hampered their integration. Comprehensive reception centres, run by the local authorities, had been set up for the benefit of new immigrants, where they could receive Dutch language lessons and information about Dutch society, education and the labour market. A bill before Parliament, to take effect in 1998, would make such courses obligatory for immigrants, especially those at high risk of unemployment.

42. The differentiation between long-term and short-term unemployment, which had also been referred to, was less rigid than before. Since 1997, each applicant for employment had a personal interview with an Employment Service consultant and opportunities were the same for all.

43. Regarding the exclusion of women from certain types of work, he said that currently the sole determining factor was fitness for the job. The only adjustment made for women was the adaptation of work and rest time to the requirements of pregnancy. Accordingly, the ILO Convention under which certain types of work were forbidden for women was no longer in force for the Netherlands. In principle, anyone could seek any type of job provided he or she was fit.

44. A question had been asked about the trend in the cost of living in relation to trends in salaries. As far as the minimum wage was concerned, the two were closely linked. Since 1992, the gross minimum wage had risen from 2,000 guilders a month to 2,200, and the net from 1,500 to over 1,700 guilders over a five-year period. During the same period, the inflation rate in the Netherlands had been very low.

45. In response to questions about the reform of the social security system, he said that there had indeed been important changes in the last few years. Rather than go into detail at the meeting, he would circulate a written account of the new arrangements.

46. In response to a number of questions asked under article 9, he said that new legislation enacted in 1996 provided for a comprehensive programme of income support and health services for the long-term unemployed and for people in poor circumstances, precisely with a view to the prevention of social exclusion. Regarding the problem of the homeless, on which a question had been asked under article 11, he said that adjustments that had been made in the Act on Social Assistance meant that, by July 1998, homeless persons would be able to receive social benefits, administered by 48 local authorities. Previously, in order to receive social benefits, it had been necessary to have an address.

47. Reference had also been made under article 11 to people living at or below subsistence level. Monitoring by the authorities had revealed that in 1995 there were 242,000 persons with incomes below the poverty line and 667,000 living at the line. The group included self-employed persons, persons receiving less than the minimum wage, although that was illegal, unemployed persons, old age pensioners and single parents. A new Action Programme had been adopted in 1995 with a view to combating poverty and social exclusion. Studies were being carried out in that regard and policy would be adjusted accordingly.

48. Mr. POTMAN (Netherlands), referring to a query by Ms. Bonoan-Dandan about child prostitution in the Netherlands, said that, according to information received from the Ministry of Justice, there were currently no reliable statistics in that regard. Research into the extent and nature of the forced prostitution of minors indicated that it seemed to occur chiefly among legal and illegal ethnic minorities, while there was also a growing problem of child prostitution among asylum seekers. That research would be finalized in the course of the year. Other studies showed that the problem undoubtedly existed in the Netherlands, but it was difficult to establish a clear picture. Child prostitution would no doubt be one of the issues raised in the follow-up report that would be requested of the Netherlands.

49. Mr. van RIJSSEN (Netherlands) said, in response to questions about housing for disabled persons, that a new scheme had been introduced in 1992 offering a subsidy of up to US$ 23,000 for the adaptation of dwellings to the needs of the disabled. Some 30,000 persons took advantage of the subsidy each year and that figure was expected to increase. Housing expenditures tended to be higher for disabled persons and it was clear from the figures for individual rent subsidies that many of the disabled were taking advantage of them. Building regulations had been amended so that in new buildings kitchens were bigger and corridors and doors wider. It was estimated that 20 per cent of the current housing stock was fully accessible to the disabled.

50. A question had been asked about the housing of asylum seekers during the period when their legal status was not yet determined. Free housing was provided for them during that time and they were also offered courses in the Dutch language, as well as information on Dutch laws and regulations of

importance to them. In part, that work was done by volunteers, members of an association subsidized by the Ministry of Justice. State provision was thus accompanied by help from volunteers. A further question had been asked about the housing in tents of asylum seekers whose applications had been rejected. He explained that that had been a private initiative, directed towards persons who were unable to return to their own country on account of acts they had themselves committed. In such cases, the Government was not obliged to take care of them. The institution concerned, a church-related body, had since ended the practice and was currently renting normal housing for the persons involved.

51. Ms. GORIS (Netherlands), replying to Ms. Jimenez Butragueño's question about general practitioners, said that about 95 per cent of health problems were dealt with by family doctors and only about 5 per cent of cases were referred to medical specialists. For the moment, there was no general shortage, although there was some difficulty in recruiting general practitioners for city vacancies. It was possible, however, that a shortage might occur in the future. Planning schemes covering the demand and supply of general practitioners, were produced by the Ministry of Health, taking into account such factors as gender, part-time work and so on. The National Institute for Research on Health Care would shortly publish a study of those developments and their possible implications for the supply of family doctors in the near future. The Ministry would decide on the basis of the study whether or not to adjust the supply.

52. In response to several questions regarding health insurance, she said that the new Medical Insurance Access Act required private insurance companies to accept all first-time applicants, offering them a policy, the so-called "standard package", whose contents were covered by statute. Regarding the possible effect of changes in the social security system on access to health care, she said that the Government did not share the view that more and more people were leaving the social health insurance system because of the collective health insurance agreements concluded by employers. The reason lay in the structure of the social health insurance system. The insurance concerned was compulsory. Everyone fulfilling its conditions was insured and paid a premium related to income. The law allowed no exemption.

53. Questions had also been asked about the Government's policy in regard to alcohol and tobacco. An Alcohol Licensing Bill had been introduced in Parliament in April 1998. Discussions were taking place there and in society at large on the enforceability of the proposed law and on the age limit of 16 in respect of beer and wine. As to the various places indicated to which licensing would apply, the Government had merely enumerated places where alcohol might be sold. On tobacco, she noted that smoking was by far the most important cause of early death in the Netherlands. In 1996, a Governmental Note on Tobacco Policy had been presented to Parliament. The note referred to the need to strengthen the policy of discouraging smoking, especially in relation to young people among whom smoking was on the increase. Matters touched on in the note included more information, less advertising, fewer selling points, an age limit of 18 for the purchase of tobacco, and more smoking-restricted areas. Because of the powerful tobacco-industry lobby in the Netherlands, it had taken time to make progress towards the goal of less

advertising, but the Government had finally decided, in November 1997, to endorse a common position within the European Union by means of a draft EU Directive on tobacco advertising.

54. Regarding health care for the elderly, she said that a report produced in 1990 had shown that elderly persons made more use than younger people of medical services. Not only were elderly people more likely to suffer from chronic conditions but they were more likely to seek medical care than earlier generations. The two trends were mutually reinforcing and likely to exert even greater pressure on medical services in the near future. As to the shortage of geriatricians, the Government was aware of the need and was trying hard to encourage the training of more specialists. However, interest in the field was still not substantial.

55. Mr. POTMAN (Netherlands), replying to a question about prison health, said that each prison had a medical service. Most of the doctors were general practitioners and also worked outside the prison, which meant that they had a broad range of experience. The services included other personnel, such as dentists and physiotherapists, who worked on a contract basis. There was also a national prison hospital where patients could be diagnosed and treated. Medical personnel were explicitly barred from exercising any penitentiary function. The prison health system was currently under evaluation, but he could assure the Committee that medical personnel were not charged with guarding prisoners.

56. Mr. van RIJSSEN (Netherlands) said, in response to a question about special education, that such education was provided at no cost to the parents. Decisions on placement were taken by a committee linked to the particular school, made up of the director of the school and a number of experts. Choices in regard to regular secondary education lay primarily with the parents, who entered their children for a particular school. The decision as to whether or not the child was accepted took into account the advice of the primary school the child had attended and an educational test, as well as the wish of the parents. Parents could register a complaint in respect of any decision.

57. As far as the system of fines and warnings was concerned, it was not yet known whether the new arrangement was effective. Regarding the additional grant to students, he said that some 37.5 per cent of students, or 185,937 persons, had received the grant in 1997. The total education budget for 1998 was 39 billion guilders, approximately 30 billion Swiss francs. Regarding the new Work Plan for adolescents, he said that every child could take advantage of the plan from the age of 15 or 16, depending on the school concerned.

58. In response to questions relating to article 15, he said that about one third of the budget for cultural activities was paid through the Ministry of Culture and two thirds through the local authorities. He regretted that he had been unable to obtain an answer about book prices. In regard to funds for architecture and industrial design, there were three ways in which such activities could be funded: through the budget for culture, through the housing budget or through the budget of the Ministry of Economic Affairs.

59. Regarding gender bias on television and in periodicals, he said the Government paid for public announcements on both public and private television pointing out the undesirability of programmes of the kind in question. Work was being done on smaller test projects designed to improve the image of women in the media. Ultimately, the responsibility lay with the media themselves.

60. Mr. POTMAN (Netherlands) apologized on behalf of his delegation for the rather rushed presentation of the last responses to the Committee's questions. A number of the answers existed on paper and would be given to the Secretariat for circulation.

61. The CHAIRPERSON invited Committee members to put any remaining questions.

62. Mr. WIMER asked for an explanation of the discrepancy between the information on working hours given in the commentary of the International Commission of Jurists and the figures provided by the delegation.

63. Mr. MARCHAN ROMERO asked what the figure was for the budget set out in the Four-Year Plan for culture. Without the actual figure, it was difficult for the Committee to appreciate the importance attached to culture by the Government.

64. Mr. van RIJSSEN (Netherlands) said that the delegation would try to obtain a figure for the amount made available through the State budget and through the local authorities. Other forms of subsidy would also be important.

65. Mr. POTMAN (Netherlands) said that the delegation had presented the law in regard to working hours as it existed. The figures quoted by the International Commission of Jurists were not those with which it was familiar and the question should perhaps be addressed to the Commission. As the delegation had explained, the figures in the commentary were not correct.

66. The CHAIRPERSON said that the dialogue with the Government of the Netherlands had thus come to an end. He thanked the delegation for its willing and detailed response to the extensive range of questions. He trusted that the exercise had been as useful to the State party as it had undoubtedly been to the Committee.

67. Mr. POTMAN (Netherlands) said that in the course of the fruitful dialogue which had taken place his delegation had tried to provide the Committee with information and explanations on the way in which the Netherlands was fulfilling its obligations under the Covenant. It had also done its best to provide an insight into the structure of the Kingdom and to explain the peculiarities of the Netherlands "polder model" with its emphasis on consensus-building. He hoped to have demonstrated his country's commitment to the rights which the Committee was tasked to protect and promote, even if the Netherlands approach to some of them was somewhat unconventional.

68. Without wishing to appear presumptuous, he expressed confidence in his country's basic structures with regard to the implementation of rights under the Covenant, and he assured members that his Government was quite aware that

a situation of relative economic prosperity called for special efforts to ensure that the majority did not indulge in self-congratulation while those in a disadvantaged position were left out in the cold. His Government looked forward to the Committee's comments and recommendations, which would be taken very seriously and would no doubt contribute to further strengthening the enjoyment of rights under the Covenant in his country.

69. In conclusion, he briefly referred to the points he had made in his opening statement on the question of future reporting and expressed the hope that the Committee would take those suggestions into serious consideration when discussing its methods of work.

70. The delegation of the Netherlands withdrew.

The public part of the meeting rose at 4.35 p.m.